S. HRG. 99-56

NOMINATION OF FRANCIS S. BLAKE

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF FRANCIS S. BLAKE TO BE GENERAL COUNSEL, ENVIRONMENTAL PROTECTION AGENCY

MAY 22, 1985

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NOMINATION OF FRANCIS S. BLAKE

WEDNESDAY, MAY 22, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Symms, and Burdick.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The committee will please come to order.

I think our nominee this morning should know that the reason the room is rather empty is because the nomination appears to be noncontroversial. When we have a nominee up here who is facing a barrage of questions in opposition, the room is usually full, so I think you can take it as a compliment, Mr. Blake, that the room is not full this morning.

Mr. BLAKE. Thank you, Mr. Chairman.

Senator STAFFORD. I know that some of your family are here, and the committee always likes to meet members of the nominee's family. I understand your wife, Anne; your son, Frank, Jr.; and your daughter, Maggie; are here. If they would wave at us so we know which ones they are, we welcome them to the hearing room this morning.

This hearing is to consider the nomination of Francis Blake to be General Counsel of EPA. Mr. Blake has had distinguished legal training, having served as a clerk for a Federal circuit court judge and a Justice of the Supreme Court before entering private practice. He also served in the executive branch for 2 years as deputy counsel to the Presidential Task Force on Regulatory Relief and deputy counsel to the Vice President.

As General Counsel, Mr. Blake would be the Administrator's top legal advisor. In this position, his sound legal training and experience would serve him well in interpreting the laws the Agency is charged with implementing and defending the Agency when its actions are challenged.

But there is something beyond legal competence that is needed if the General Counsel is to serve the Agency and the people of this Nation. That something is a commitment to the Agency's mission to protect the environment and public health.

Environmental statutes charge the Administrator with the responsibility for making decisions to protect the environment. The

public expects the Administrator to make decisions based on sound information. Perhaps as important as the decisions themselves is the process by which they are made. If the process is open, with all participants and views made part of the public record, fears of undue influence by special interests are greatly diminished. If the process or parts of it are closed to public scrutiny, no matter how sound and independent the Administrator's final decision, it is likely to be viewed with suspicion.

The Administrator will need from his legal adviser continued support for the position that the law gives the Administrator, and only the Administrator, ultimate authority to make the most important environmental decisions. The General Counsel must also see that legal opinions and advice are rendered to the Administrator in timely fashion.

The legal profession is known more for its propensity to delay—you can see that the chairman didn't write that phrase because the chairman was for a long time practicing law himself—rather than to expedite decisions. Where delay can mean irreparable harm, as is often the case in EPA actions, unduly cautious and lengthy legal analysis are a disservice to the public. If confirmed, Mr. Blake will need to bring to his position a willingness as well as an ability to make sound and speedy legal decisions.

Finally, the General Counsel must see that the Agency adheres to the spirit as well as the letter of the law. The spirit of our environmental laws is that protection of public health and the environment is a paramount national priority.

With that introduction, I would like to say that I look forward to hearing from Mr. Blake and I would invite my colleagues who are here this morning to make any comments they wish at this point.

Senator SYMMS. Mr. Chairman, I have no opening statement. I only wish to welcome Mr. Blake and his family and wish him good luck and God speed in his new tasks. I have to say that it takes a certain amount of courage to take on a job like he is taking, and I wish him well. I think he will find that he will get great cooperation from those of us on this committee.

I read through your opening statement, Mr. Blake, and I think you have all the qualifications to do an excellent job for the Administrator and for the country. I wish you good luck.

Mr. BLAKE. Thank you, Senator.

Senator STAFFORD. Thank you, Senator Symms.

Senator Burdick, do you have a statement?

Senator BURDICK. Mr. Chairman, I have looked over the material that I have before me this morning, and I find in it a very interesting statement. I see that Mr. Blake attended Harvard and also Columbia Law School. My only question to the candidate is, Why did he avoid the University of Minnesota?

Senator STAFFORD. He didn't play football.

Senator BURDICK. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you.

Mr. Blake, we would be very happy to hear from you.

STATEMENT OF FRANCIS S. BLAKE, NOMINEE TO BE GENERAL COUNSEL, ENVIRONMENTAL PROTECTION AGENCY

Mr. BLAKE. Thank you, Mr. Chairman, and members of the committee. It is a great honor to be here before you today as the President's nominee for General Counsel at EPA.

With your permission, I would like to submit my written statement for the record and just summarize a few of the points in it.

Senator STAFFORD. Without objection, we will do that.

Mr. BLAKE. Thank you, Mr. Chairman.

First, let me thank the committee for promptly scheduling this hearing. I know how extremely busy you are, and I greatly appreciate your setting aside the time this morning.

I have had the good fortune in the past of working with people of singular ability and integrity, and I now look forward to the same opportunity in working for and with Mr. Thomas and Mr. Barnes at EPA as well as with the members of this committee and its staff.

I believe I share with Mr. Thomas and Mr. Barnes a commitment and dedication to the goals of the Agency. I think Senator Stafford accurately described their own commitment and belief that those goals are of paramount importance to the Nation both in protecting human health and the environment in the short term and also for generations to come.

I also share with them a strong conviction that in dealing with the very difficult and complex issues before the Agency, it is absolutely critical that the Agency conduct its business openly and fairly and objectively so the public has full confidence in both the decisions and decisionmaking process of the Agency. I believe that the General Counsel will have an important role to play in helping the Agency achieve its statutory goals. I am fortunate in that my predecessor has left behind a very strong General Counsel's office, and I would hope to maintain and build upon the level of excellence that has been achieved.

In particular, I would hope that the General Counsel's office will consistently and in a timely fashion provide to the decisionmakers at the Agency the full range of legal issues associated with all of the different policy options presented to those decisionmakers. I know that the statutes that govern EPA are complex and uniquely important.

I think that the job of General Counsel is a particularly challenging one and one that I am very much looking forward to. I would hope in the future to be able to work with all the people at EPA as well as the Members of Congress and the staff and the public as a whole in helping the Agency achieve those important paramount goals of protecting human health and the environment.

Again, I want to thank the committee for this opportunity to appear before you. If you have any questions, I would be glad to try to answer them.

Senator STAFFORD. Thank you very much.

Let me observe, before I ask a question, that you will find this committee has some, we think, able lawyers on its staff and other able professional people to help it do its work. Generally, they do not operate in a partisan fashion, so we hope you will, whenever

questions arise, consult with our staff attorneys and other professionals and that you will feel free to do it on a nonpartisan basis, because that is the way the committee has operated most of the time that I have had the privilege of beign on it under Jennings Randolph's leadership and later under my chairmanship.

Mr. BLAKE. I would look forward to that.

Senator STAFFORD. Let me ask you a couple of boilerplate questions. Do you know of any position you may hold or any holdings or interests you may have that might put you in a conflict of interest position as General Counsel to EPA?

Mr. BLAKE. No, sir, I don't. I have no financial conflicts. I do have some areas of potential conflict arising from my past practice of law in the private sector, and I have filed a recusal memorandum with the Agency's ethics officer to address those areas.

Senator STAFFORD. You would expect, I suppose, to recuse yourself from any decisions where you might be in a conflict as a result of earlier law practice?

Mr. BLAKE. Yes, sir, exactly.

Senator STAFFORD. Are you willing to appear at the request of any committee of the Congress as a witness before it?

Mr. BLAKE. Yes, sir.

Senator STAFFORD. As you know, there is considerable congressional concern about the independence of EPA's Administrator in making regulatory decisions delegated to him by the Congress. I note that from 1981 to 1983, you served as deputy counsel to the Presidential Task Force on Regulatory Relief. Please share with the committee your views on the proper role of the Office of Management and Budget in reviewing EPA regulations under Executive Orders 12291 and 12498.

Mr. BLAKE. Sir, I believe that the President has given OMB an important role in reviewing the regulatory programs of the different Federal agencies. At the same time, both the President and this Congress have specifically tasked EPA with reaching the ultimate decisions on issues affecting human health and the environment under the statutes that this Congress has passed.

I think that, from my conversations with both the Administrator and the Deputy Administrator, they are fully committed to maintaining EPA's absolute independence with respect to all decisions that come before them. They will, of course, listen to OMB as they would listen to others within and outside of the administration, but the decision will be the Agency's.

Senator STAFFORD. At his confirmation hearing, I asked Deputy Administrator Barnes a question regarding EPA communications with OMB. He responded that with respect to oral communications containing factual information or argument relative to the substance of a rule, it is EPA policy that such information be reduced to writing and placed in the public document. Mr. Barnes states, "this policy applies to communications received from all external parties including OMB."

Many EPA staff including some in the General Counsel's office apparently are unaware that this policy applies to the Office of Management and Budget.

My question to you is, What is your understanding of the Agency's current policy with respect to meetings and oral communica-

tions with OMB and, second, what do you believe is needed in the way of documenting EPA and OMB contacts in order to assure both the substance and appearance of EPA's independence?

Mr. BLAKE. Sir, I believe that the Agency's longstanding position has been that all oral communications that contain significant factual matter that are relevant to the rulemaking docket are reduced to writing and are placed in the docket. In fact, I think there are some judicial precedents that suggest that that is the appropriate way for the Agency to ensure public confidence in its rulemaking record. I believe that the Agency has followed that practice with OMB as well as with members of the public.

I think that Congress has addressed in some statutes, such as the Clean Air Act, specific procedures for EPA and OMB to follow with respect to placing materials in the docket, and both the agency and the OMB are obliged to follow those procedures. As you stated earlier, I think both the Administrator and the Deputy Administrator believe it is absolutely critical that the public have confidence that there are no ex parte or back door communications that are affecting rulemakings. That all has to be laid out on the public docket and the Agency's rule has to be able to stand on the public docket that is created.

Senator STAFFORD. Finally, this can be done for the record, please provide the committee with a list of EPA rules reviewed by the Presidential Task Force on Regulatory Relief during the period you served as deputy counsel. Please indicate those rules on which you took a policy position and provide the committee with copies of memoranda which you prepared or supervised or assisted in the preparation of concerning those rules. (See p. 21.)

Senator Burdick, do you have questions?

Senator BURDICK. Thank you, Mr. Chairman.

Welcome to the committee. I hope you realize that we have some very serious problems facing this country and that your job is not going to be necessarily a 9 to 5 job with 2 hours off for lunch and so you can spend the rest of your time in a mahogany laden office, because we are faced with a very serious problem concerning the environment. I think while you are in office you are going to have a lot to do with the removal of toxic wastes in this country. It is a serious and growing problem, and I hope you understand the importance of your position, because you can have an awful lot to do with it.

Do you agree with me that the toxic wastes in this country are really presenting a problem?

Mr. BLAKE. Yes, sir, absolutely.

Senator BURDICK. Well, if you realize that, I am satisfied.

Senator STAFFORD. Thank you, Senator Burdick, and thank you, Mr. Blake.

I am going to reserve the right, if there is no objection, for members who might wish to submit questions to you in writing in the next day or two for your early response. Other than that, I think we can conclude this meeting of the committee.

Mr. BLAKE. Thank you very much.

Senator STAFFORD. The committee stands adjourned.

[Whereupon, at 10:20 a.m., the committee recessed, to reconvene subject to the call of the Chair.]

[Mr. Blake's written statement, replies to a committee questionnaire, a letter of recusal, and a response to Senator Stafford's request for additional information follow:]

STATEMENT
OF
FRANCIS S. BLAKE
FOR CONFIRMATION
AS ASSISTANT ADMINISTRATOR (GENERAL COUNSEL)
OF THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE
ON ENVIRONMENT & PUBLIC WORKS
UNITED STATES SENATE
WEDNESDAY, MAY 22, 1985

Mr. Chairman and Members of the Committee, I am honored to come before this Committee as the President's nominee for Assistant Administrator (General Counsel) of the Environmental Protection Agency. I would like to take this opportunity to describe briefly my background, my perception of the role of the General Counsel at EPA and the goals that I hope to achieve.

I received my college degree from Harvard in 1971, magna cum laude. In the following two years, I worked as a legislative aide in the Massachusetts State Legislature. I then entered Columbia Law School and received my law degree in 1976. While at Columbia, I was Editor-in-Chief of the Law Review and was twice a Kent Scholar, the highest scholarship award.

Following law school, I had the privilege of serving as a law clerk for two of the country's finest jurists -- first, for Judge Wilfred Feinberg, currently the Chief Judge of the United States Court of Appeals for the Second Circuit, and then, for Justice John Paul Stevens of the United States Supreme Court. After those clerkships, I joined the law firm of Leva, Hawes, Symington, Martin and Oppenheimer as an associate, working primarily in the areas of environmental

and administrative law.

In 1981, I joined the staff of Vice President George Bush, where I worked on matters relating to the Presidential Task Force on Regulatory Relief and subsequently became Deputy Counsel to the Vice President. In 1983, I joined the law firm of Swidler, Berlin & Strelow, Chtd., as a partner and have worked there for the past two years, again focusing primarily on environmental and administrative law.

Throughout my career, I have had the great fortune of working with people of extraordinary ability and integrity. I now look forward to the opportunity of working with Lee Thomas and Jim Barnes, as well as with the Members of this Committee and Congress, in helping EPA fulfill its public mandate.

Congress has entrusted to EPA a wide range of vitally important decisions that will affect public health and the environment both in the short term and for generations to come. Because of the number and complexity of the environmental statutes that define EPA's mission, the Office of General Counsel plays an important role in supporting the Agency's achievement of its statutory duties. The quality, dedication and morale of the attorneys in the Office are critical elements in ensuring that it performs its function of providing timely and sound legal advice to the Agency's decisionmakers. During the past few weeks I have had the opportunity to observe the workings of the Office, and it is clear that the

prior General Counsel has left a legacy of a solid organization with highly qualified and dedicated personnel. If confirmed as General Counsel, I would hope to maintain and build upon the level of excellence that the Office has achieved.

The General Counsel's job is not to set policy within the Agency. Rather, the General Counsel's Office must ensure that the decisionmakers are fully informed of the range of legal risks and consequences associated with different policy options. Statutory and legal issues often admit of no one clearly correct answer; legislative drafting, no matter how thorough and careful, cannot remove all ambiguities and uncertainties. Sound legal advice requires both a working understanding of complicated statutory provisions and a broader understanding of the central function of the Agency's legislative mission to protect human health and the environment. The description of this task is easy; its implementation difficult. Above all, it requires a commitment to fairness, objectivity and professionalism. That commitment already exists at the Agency; the Administrator and Deputy Administrator have emphasized it; and I share in it wholeheartedly.

Let me add that, as an attorney leaving private practice for government service, I have given -- and will continue to give -- particular attention to avoiding any actual or potential conflicts of interest. I have forwarded to the Committee a recusal memorandum that I have submitted to the agency's Ethics Officer. I want to assure this Committee that I will make

every effort to avoid becoming involved in any potential conflict or even the appearance of a conflict of interest.

I want to thank the Committee for this opportunity to appear before you and hope that you will consider my nomination favorably. I look forward to the opportunity of working with the Agency and with the Members and staff of this Committee and Congress in helping EPA achieve its important statutory responsibilities.

If you have any questions, I would be pleased to try to answer them. Thank you.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and twenty-five (25) copies of the requested information should be made available to Honorable Robert T. Stafford, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Blake (Last) Francis (First) Stanton (Middle)

Position to which nominated: Assistant Administrator (General Counsel) - EPA

Date of Nomination: 4/26/85

Date of birth: 30 July 1949 (Day) (Month) (Year)

Place of birth: Boston, Mass.

Marital status: Married

Full name of spouse: Anne McChristian Blake

Name and ages of children:

Francis S. Blake	7
Margaret D. Blake	2

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Harvard College	9/67 - 6/71	B.A.	6/71
Columbia Law School	9/73 - 6/76	J.D.	6/76

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

5/83 - 3/85: Swidler, Berlin & Strelow, Chtd.
1000 Thomas Jefferson Street N.W., Washington, D.C.
Attorney/Partner

3/81 - 4/83: Office of The Vice President
Washington, D.C.
Attorney/Deputy Counsel to Vice President Bush;
Deputy Counsel to Presidential Task Force on
Regulatory Relief

11/78 - 2/81: Leva, Hawes, Symington, Martin & Oppenheimer

Employment record—Continued

827 Conn. Ave., Washington, D.C.

Attorney/Associate

7/77 - 8/78: U.S. Supreme Court

Law Clerk to Justice John Paul Stevens

(Continued on next page...)

Military service: List all military service if not included above. Give branch of service, dates, rank, and type of discharge.

None

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

College: Graduated magna cum laude

Law School: Editor-in-Chief, Columbia Law Review.

Kent Scholar: 1973-74; 1975-76

Stone Scholar: 1974-75

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
D.C. Bar Association	None	1978 - present

(Continued from previous page...)

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

6/76 - 6/77:	U.S. Court of Appeals, Second Circuit
	Foley Square, N.Y., N.Y.
	Law Clerk to Judge Wilfred Feinberg
6/75 - 7/75:	Ropes & Gray
	Boston, Mass.
	Summer Associate
6/74 - 7/74:	Boston Legal Assistance Project
	Boston, Mass.
	Summer Associate
10/71 - 5/73:	Massachusetts State Legislature
	Legislative Aide

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None

Qualifications: State fully your qualifications to serve in the position to which you have been nameć

In my legal career, both in private practice and in government, I have had extensive experience in the area of environmental law and administrative law generally.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, busi ness firm, association or organization if you are confirmed by the Senate.

I have severed my connections with the law firm of Swidler, Berlin & Strelow, Chtd.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no such plans.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If your have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

As indicated, I left the Office of Vice President in April, 1983 to become a partner in the law firm of Swidler, Berlin & Strelow, Ch

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

I expect to receive the amount of my previous equity contribution in the law firm of Swidler, Berlin & Strelow, Chtd. The amount should be $5,001 to $15,000. I anticipate receiving that amount within this calendar year.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None - other than the eventual receipt of my prior equity contribution to the law firm of Swidler, Berlin & Strelow, Chtd., as previously described.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

I represented clients before the U.S. EPA in a Section 126 proceeding under the Clean Air Act, as well as in State Implementation Plan proceedings under the Clean Air Act.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

See attached recusal memorandum that I submitted to Gerald Yamada, Esq., EPA's designated Ethics Officer.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached recusal memorandum that I submitted to Gerald Yamada, Esq., EPA's designated Ethics Officer.

Additional Matters:

1. If there is any additional information which you believe may be pertine Members of the Committee in reaching their decisions, you may include t

No.

2. Do you agree to appear before all Congressional Committees which s testimony?

Yes.

3. Having completed this form, are there any additional questions which yo the Committee should ask of future nominees?

No.

AFFIDAVIT

Francis S. Blake) ss, being duly sworn, hereby states that he/ read and signed the foregoing Statement for Completion by Presidential Nominees including the F Statement and that the information provided therein is, to the best of his/her knowledge and belief, accurate, and complete.

F S Blake

Subscribed and sworn before me this 17th day of May , 1985.

Mary V. Boyles
Notary Public

My Commission Expires October 14, 1988

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 2 1985

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

TO: Gerald H. Yamada
Acting General Counsel
Designated Agency Ethics Official

FROM: Francis S. Blake
General Counsel Designate

SUBJECT: Recusal

From May, 1983 to March, 1985, I was a partner in the law firm of Swidler, Berlin & Strelow, Chtd. In that capacity I represented several midwest utilities in the Section 126 proceeding before EPA. Because that proceeding raised issues relating to acid rain, I have decided, in order to avoid any actual or apparent conflict of interest, to recuse myself from participation in any issue related to acid rain. I have also recused myself from participation in the "stack height" regulations in order to avoid even the appearence of any conflict. Finally, I have recused myself from any EPA matter in which a party is represented by the law firm of Swidler, Berlin & Strelow, Chtd.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 31 1985

OFFICE OF
GENERAL COUNSEL

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

During my confirmation hearing, you requested that I provide for the record a list of the EPA rules reviewed by the Presidential Task Force on Regulatory Relief. Enclosed is a list of the EPA rules that the Task Force designated for review pursuant to Executive Order 12291. I should note in connection with this list that the Task Force did not review any of these regulations. The Task Force designated regulations for review by EPA and other agencies, and the agencies were responsible for conducting the review and implementing the changes, if any, that they considered appropriate. As Vice President Bush stated from the inception of the Task Force, the Task Force's function was to serve as a "catalyst," not a decisionmaking or reviewing body. Under Executive Order 12291, the Task Force was assigned the responsibility of resolving disagreements between OMB and the agencies, but to my knowledge no such disagreements were ever raised to the Task Force with respect to an EPA regulation.

Also, you requested that I indicate those EPA rules on which I took a policy position and that I provide copies of any memoranda that I prepared (or supervised or assisted in the preparation of) concerning those rules. I did not take a policy position with respect to any of the listed regulations, and to the best of my knowledge (having reviewed the files from my time in the Vice President's Office), there are no memoranda responsive to your request.

Again, I want to thank you for giving me the opportunity to appear before the Committee, and I hope that you will consider my nomination favorably. I look forward to the chance of working with your Committee and the Committee staff.

Sincerely,

Francis S. Blake

Enclosure

List of Regulations that the Presidential Task Force on Regulatory Relief Designated for Review by EPA

Self-certification program for high altitude vehicles

Assembly line testing at high altitude

Consolidated NOx and CO waivers

Motor vehicle certification program

Test vehicle exemption requirements

Number of assembly line test orders

Standards for paint shops

Emission averaging for diesel particulates

Equivalent non-methane hydrocarbon standards

1984 model year HC and CO standards for heavy-duty trucks

Acceptance quality level for assembly line testing SEA program for heavy-duty engines

Lead Phasedown

Hazardous waste disposal

Electroplating pretreatment and general pretreatment standards

BCT effluent guidelines

Premanufacture notification exemption policies

Pesticides registration program

Consolidated permit program